

**AN ORDINANCE BY
CITY UTILITIES COMMITTEE**

AN ORDINANCE RESCINDING 97-O-1090 WHICH ABANDONED GAITHER CIRCLE, N.E. BETWEEN CHESHIRE BRIDGE ROAD, N.E. AND WELLBOURNE DRIVE, N.E., ALL LYING AND BEING IN LAND LOT 50 OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA; AND FOR OTHER PURPOSES.

WHEREAS, the Atlanta City Council approved Ordinance 90-O-0842 on June 18, 1990, which caused the abandonment of the northeast corner of Gaither Circle, and Wellbourne Avenue as a public right-of-way (shown on the Attached Exhibit "A"); and

WHEREAS, the Atlanta City Council subsequently approved Ordinance 97-O-1090 on September 2, 1997, which caused the abandonment of the remainder of Gaither Circle, N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E. as a public right-of-way (shown on the Attached Exhibit "B"); and

WHEREAS, the 1997 abandonment legislation, Ordinance 97-O-1090, was originated by the Zoning Committee in anticipation of several individual lots being consolidated; and

WHEREAS, City records in the Bureau of Planning indicate the anticipated lot consolidation never took place, and the Director of Real Estate Portfolio has also confirmed that there has been no subsequent transfer of title to any of the abutting owners as required by City Code Section 138-9 (i); and

WHEREAS, the lack of lot consolidation and title transfer has created the potential for individual unconsolidated lots to be landlocked, and is in violation of City Code Section 138-9(j)(1) and against public policy regarding abandonment of public rights-of-way; and

WHEREAS, an owner of various lots that abut the abandoned portion of Gaither Circle, N.E. is contemplating the sale of one or more lots which can only be accessed from Gaither Circle, N.E., and has petitioned the Director of Real Estate Portfolio to add Gaither Circle back onto the municipal street system inventory; and

WHEREAS, both the Department of Public Works and the Director of Real Estate Portfolio have investigated the problems associated with the two previous abandonments and have confirmed that rescinding the street abandonment caused by 97-O-1090 and putting Gaither Circle N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E., back onto the municipal street system inventory is an appropriate measure to ensure that the individual lots along Gaither Circle N.E. avoid being landlocked; and

WHEREAS, the request to rescind the abandonment of Gaither Circle, N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E., has been reviewed and is supported by the Department of Public Works; and

WHEREAS, it is in the City's best interests to reclaim the previously abandoned but not yet transferred portions of Gaither Circle N.E. between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E. as public right-of-way.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

SECTION 1: That it is hereby declared that reclamation by the City of Gaither Circle N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E., as a public right-of-way is in the best interest of the City and public.

SECTION 2: That Ordinance 97-O-1090 which abandoned Gaither Circle N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E., is hereby rescinded.

SECTION 3: That the Departments of Planning and Public Works are directed to indicate on all appropriate city records that Gaither Circle N.E. is reflected as city owned right-of-way and added back to the municipal street system.

SECTION 4: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

90-0-0842

CLERK OF COUNCIL
ATLANTA, GEORGIA

AN ORDINANCE

BY CITY UTILITIES COMMITTEE

AN ORDINANCE TO ABANDON THE EXISTING UNOPENED RIGHT-OF-WAY OF GAITHER CIRCLE, N.E., AT THE NORTHEAST CORNER OF GAITHER CIRCLE AND WELLBOURNE AVENUE, AS SHOWN HEREIN ON THE ATTACHED PLAT; LYING AND BEING IN LAND LOT 50 OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA; ABANDONED AREA CONTAINS APPROXIMATELY 39.84 SQUARE FEET (.00093 ACRES).

WHEREAS, the unopened right-of-way of Gaither Circle, N.E., at the northeast corner of Gaither Circle and Wellbourne Avenue far exceeds the fifty (50) feet required right-of-way width of a street for transportation purposes; and

WHEREAS, the abutting property owners have petitioned the City of Atlanta to reduce the existing right-of-way of Gaither Circle, N.E.

WHEREAS, the abandoned area will become part of the abutting property owners' private property and their responsibility to maintain; and

WHEREAS, the request to abandon this portion of Gaither Circle, N.E., has been reviewed by the proper related City agencies and by all public utilities. There are no public or private utilities in this area.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA as follows:

Section 1: That the existing unopened right-of-way of Gaither Circle, N.E., at the northeast corner of Gaither Circle and Wellbourne Avenue be abandoned as shown herein on the attached plat, lying and being in Land Lot 50 of District 17, Fulton County, Georgia, so that the remaining right-of-way is 50 feet.

Section 2: That the Director of Purchasing and Real Estate be and is hereby authorized to appraise said street to determine its fair market land value. Upon completion of the appraisal, a copy of same shall be presented to the City Utilities Committee for review and approval.

Section 3: That all cost associated with the appraisal report shall be charged to and paid from Account Number 1A01524001G55001.

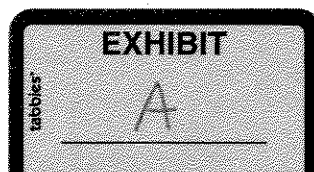
Section 4: That the Mayor be and is hereby authorized to execute a quitclaim deed to said street. The date of execution of such quitclaim deed shall be the effective date of the proposed abandonment.

Section 5: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

A true copy,

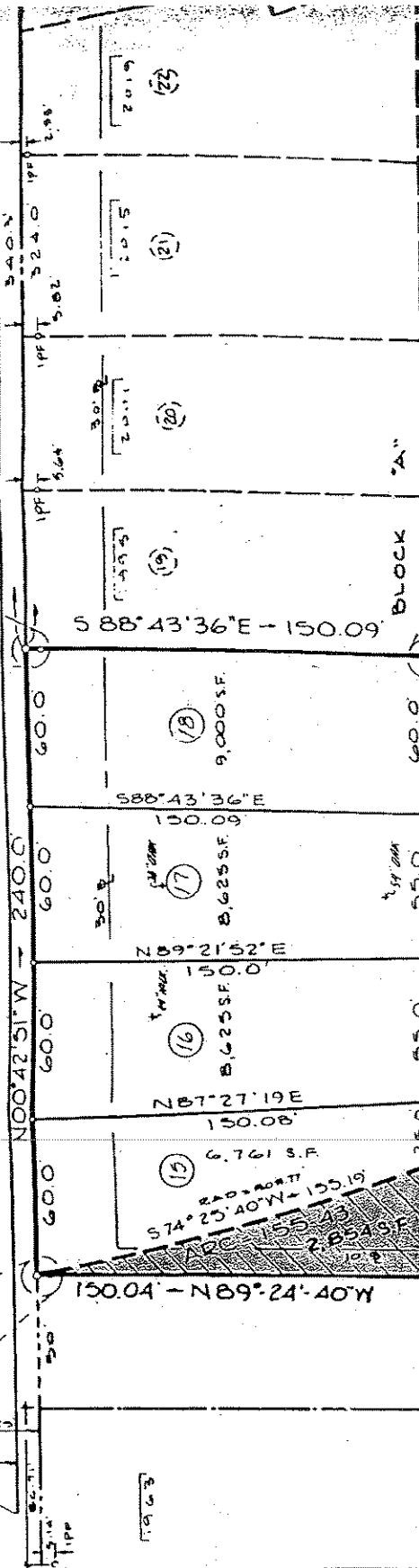
Olivia Parks
Deputy Clerk, C.M.C.

ADOPTED as amended by Council June 18, 1990
APPROVED by the Mayor June 22, 1990



WELLBOURNE DRIVE - 50' R/W

(a.k.a. WELLBORN DRIVE)



BLOCK "A"

500°42'51"E - 195.0

GAITHER STREET - 50' R/W
(a.k.a. GATHER STREET - NO ROAD BED)

BLOCK "B"



IN OPINION, THIS PLAN & CORRECT
REPRESENTATION OF THE LAND PLATTED
HEREIN WAS PREPARED IN CONFORMITY
WITH THE REQUIREMENTS OF THE
GEORGIA SURVEYING AND MAPPING
ACT OF 1967.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE
FOOT IN 19,455 FT. AND AN ANGULAR ERROR OF 1.0" PER ANGLE POINT, AND WAS
ADJUSTED USING THE CRANDALL RULE.

FINAL

MUNICIPAL CLERK
ATLANTA, GEORGIA

97- 0 -1090

AN ORDINANCE
BY: ZONING COMMITTEE

AN ORDINANCE TO ABANDON GAITHER CIRCLE, N.E. BETWEEN
CHESHIRE BRIDGE ROAD, N.E. AND WELLBOURNE DRIVE, N.E.,
ALL LYING AND BEING IN LAND LOT 50 OF THE 17TH DISTRICT,
FULTON COUNTY, GEORGIA; AND FOR OTHER PURPOSES.
NPU: F COUNCIL DISTRICT 6

WHEREAS, the City of Atlanta has received a formal request from Shawshank Construction Ltd. And NPU F to abandon Gaither Circle, N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E., all lying and being in Land Lot 50 of the 17th District, Fulton County, Georgia, for their private use; and

WHEREAS, this abandoned right-of-way will become part of the abutting owner's private property and will become his responsibility to maintain; and

WHEREAS, the request to abandon Gaither Circle, N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E., is being reviewed by the appropriate city agencies and public utilities;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

Section 1: That Gaither Circle, N.E., between Cheshire Bridge Road, N.E. and Wellbourne Drive, N.E., all lying and being in Land Lot 50 of the 17th District, Fulton County, Georgia, as shown on the attached Exhibit 'A', be and the same is hereby declared is no longer or necessary for the public's use and convenience.

Section 2: That any and all reservations for existing public or private utility easements shall remain in effect for the purpose of entering the property to operate, maintain, or replace said utility/facilities. These easements shall remain in effect until such time that said utilities are abandoned, removed, or relocated, at which time said easements shall expire.

Section 3: That the Director of Purchasing and Real Estate be and is hereby authorized to appraise the right-of-way of said street to determine its fair market value. Upon completion of the appraisal, a copy of same shall be presented to the Transportation/City Utilities Committee for review and approval.

Section 4: That all costs associated with the appraisal report shall be charged to and paid from Account Number 1A01 524001 G55001.

Section 5: That the Mayor be and is hereby authorized to execute a quitclaim deed to said street, upon payment of the determined fair market value of said street.

Section 6: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

A true copy.

Debra F. Moore
Municipal Clerk, CMC

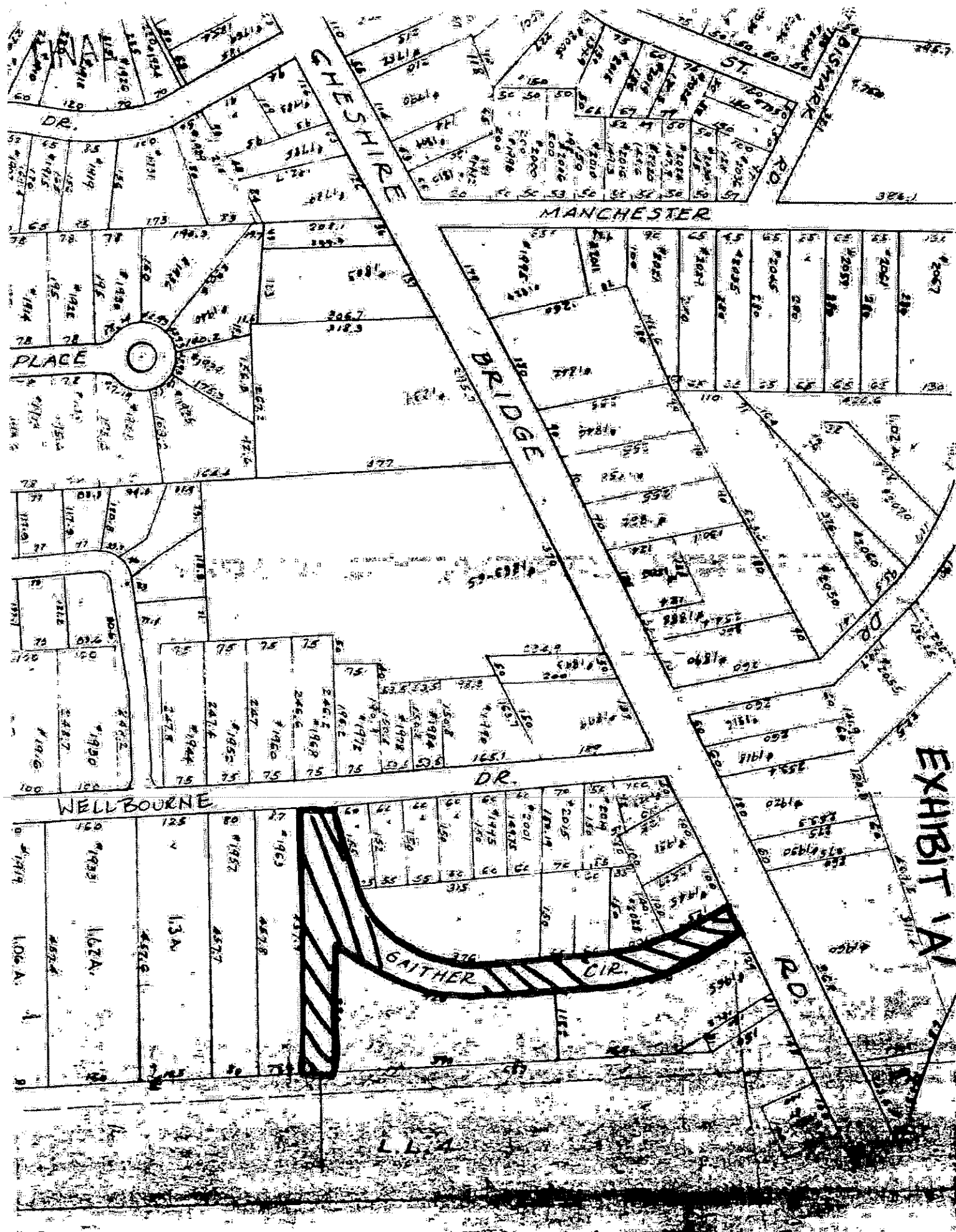
ADOPTED by the City Council
APPROVED by the Mayor

September 02, 1997
September 08, 1997

EXHIBIT

tabbles

B



Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities Committee

Caption: AN ORDINANCE RESCINDING 97-O-1090 WHICH ABANDONED GAITHER CIRCLE, N.E. BETWEEN CHESHIRE BRIDGE ROAD, N.E. AND WELLBOURNE DRIVE, N.E., ALL LYING AND BEING IN LAND LOT 50 OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA; AND FOR OTHER PURPOSES.

Council Meeting Date: February 16, 2009

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to rescind 97-O-1090 which created land locked lots by abandoning Gaither Circle. The abandonment took place in anticipation of lot consolidation.

2. Please provide background information regarding this legislation.

In 1997, a number of lots on Gaither Circle were rezoned from R-3 to RG-2 (Ordinance 97-O-0555). Subsequent to this rezoning, the Zoning Committee abandoned Gaither Circle (Ordinance 97-O-1090). City records in the Bureau of Planning indicated that the anticipated lot consolidation never took place, and the Director of Real Estate Portfolio has confirmed that there has been no subsequent transfer of title to any of the abutting owners as required by City Code Section 138-9 (i). Various owners of lots that abut the abandoned portion of Gaither Circle are contemplating the sale of one or more lots that can only be accessed from Gaither Circle. They have petitioned the Director of Real Estate Portfolio to add Gaither Circle back onto the municipal street system inventory, and have requested that Ordinance 97-O-1090 be rescinded so that the individual lots fronting Gaither Circle will have access from a public street.

3. If Applicable/Known:

(a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**

- (b) Source Selection:
- (c) Bids/Proposals Due:
- (d) Invitations Issued:
- (e) Number of Bids:
- (f) Proposals Received:
- (g) Bidders/Proponents:
- (h) Term of Contract:

4. Fund Account Center:

5. Source of Funds:

6. Fiscal Impact:

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By: Soraya Belgrave

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: Soraya Belgrave

Contact Number: (404) 330-6002

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: January 27, 2009

Anticipated Committee Meeting Date(s): February 10, 2009

Anticipated Full Council Date: February 16, 2009

Legislative Counsel's Signature: Stefanie Grant 

Commissioner Signature: 


Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE RESCINDING 97-O-1090 WHICH ABANDONED GAITHER CIRCLE, N.E. BETWEEN CHESHIRE BRIDGE ROAD, N.E. AND WELLBOURNE DRIVE, N.E., ALL LYING AND BEING IN LAND LOT 50 OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA; AND FOR OTHER PURPOSES.

Mayor's Staff Only _____

Received by CPO: _____ (date) Received by LC from CPO: _____ (date)

Received by Mayor's Office: 1-27-09  (date) Reviewed by: _____ (date)

Submitted to Council: _____